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MAY 21 2004
OFFICE OF THE DIRECTOR
TC 3600

In re Application of :
Paul John Griffiths : DECISION ON PETITION
Application No. 09/525,741 : TO WITHDRAW THE
Filed: March 14, 2000 : HOLDING OF ABANDONMENT
For: AIR SPRING :

This is in response to applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on October 1, 2003.

The petition is **DISMISSED**.

A review of the file record indicates this application was held abandoned on September 29, 2003 for failure to timely file an appeal brief after having filed a Notice of Appeal on December 7, 2001. A notice to that effect was mailed to applicant on September 29, 2003.

The applicant claims that an Appeal Brief was sent by facsimile on February 7, 2002 and was received by the Office even though it was sent to an incorrect facsimile number (703-872-9372). This is because applicant's facsimile transmission confirmation report shows that it was received.

A review of the file indicates that the Office did not receive the Appeal Brief allegedly sent on February 7, 2002 and no indication was given by the Office to applicant acknowledging receipt of the transmission. Indeed this is because the Appeal Brief was sent to an incorrect facsimile number.

The copy of the Appeal Brief submitted with the petition includes a Certificate of Transmission dated February 7, 2002.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).


While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

Further, the copy of the facsimile confirmation/transmittal page having the February 7, 2002 date cannot be relied upon as proof of timely filing the response. See section 512 of the MPEP.

All future correspondence to be sent by facsimile transmission should be sent to the Central Fax location at 703-872-9306.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Randolph Reese at (703) 308-2121.



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RAR/cps 5/19/04